case regardless of any election of legal remedy by the defendant. The court, after disposing of the jurisdictional questions also decided that the defendant was personally liable for the mortgage, because she had previously agreed in writing to pay it. The complainant, under the bona fide belief that he owned the land, assumed the mortgage and took a discharge. It is certainly equitable as between the parties, that he should receive the benefit of the mortgage and that it should be made an equitable lien against the land. *Cole* v. *Malcolm* (1876), 66 N. Y. 363; *Jenness* v. *Robinson* (1839), 10 N. H. 215; *Norton* v. *Highleyman* (1886), 88 Mo. 621; *Lowrey* v. *Byers* (1881), 80 Ind. 443; *Staples* v. *Fox* (1871), 45 Miss. 667.

INJUNCTION—JURISDICTION—RESTRAINT OF OFFICER DE FACTO.—V and H were candidates for the office of mayor of the city of M. The certificates of election were issued to M. V was the duly elected and qualified mayor at the time of said election and instituted a contest to determine H's right to the office. After notice of such contest, H brought suit in equity against V, alleging in his petition that he had been duly elected and qualified as mayor of M, that the said V interfered with his occupation of said office, and also refused to deliver over the books and seal of said office, and prayed for an injunction restraining V from interfering with H's occupation of the office, and from occupying the office himself, and that he be ordered to deliver over to the plaintiff the books and seal of said office. The trial court issued a temporary writ restraining the defendant from interfering in any manner with the plaintiff and ordering him to turn over to the plaintiff all said books and the said seal, and to refrain from exercising or attempting to exercise any of the rights as mayor of said city. *Held,* that it was beyond the jurisdiction of the trial court to restrain an officer de facto in favor of an officer de jure. *Vette* v. *Byington, Judge* (1906), — Ia. —, 109 N. W. Rep. 1073.

It is well settled law that a court of equity has no jurisdiction to try title to an office, because the proper remedy is at law, usually by quo warranto. POM. EQ. JUR. (3rd Ed), Vol. V, § 333; *Cochran* v. *McCleary* (1867), 22 Iowa 75. *Dickey* v. *Reed* (1875), 78 Ill. 261. The plaintiff at the trial in the principal case seems to have recognized this rule, but sought to avoid its force by claiming that H had a prima facie title and possession, because he had been duly elected. As a matter of fact, however, V was in full possession and was the real officer de facto. The great weight of authority seems to be that a court of equity will not disturb an officer in possession, whether he is in that possession wrongfully or not, at the instance of any de jure officer not in possession. *State* v. *Alexander* (1899), 107 Ia. 177; *Cochran* v. *McCleary, supra; Twp. of Grove* v. *Miles* (1899), 109 Ia. 541; POM. EQ. JUR. (3rd Ed.), Vol. V, § 333. It has even been held that the officer de facto in possession may be protected by a court of equity, since this is not trying title, but simply maintaining good order. *Rhodes* v. *Driver* (1901), 69 Ark. 606; *Parsons* v. *Durand* (1898), 150 Ind. 203; *Scott* v. *Sheehan* (1905), 145 Cal. 691; *Stenglein* v. *Circuit Judge* (1901), 128 Mich. 440. It would seem that the court rightfully annulled the restraining order (in the

principal case) since to uphold such an order would be squarely against the weight of authority laid down in the cases, moreover such an action by a court of equity would interfere with those political rights incident to the title to office.

INSURANCE—EFFECT OF SUICIDE UPON RECOVERY UNDER THE CONTRACT.—Suicide as a defense to an action on a policy which contained no provision in regard to that matter, has recently been considered in the Nebraska Supreme Court. *Held,* suicide no defense where the certificate was not procured by the insured with the intention of committing suicide, unless the contract provided so in express terms. *Lange* v. *Royal Highlanders* (1907), — Neb. —, 110 N. W. Rep. 1110.

This case is directly opposed to *Ritter* v. *Ins. Co.,* 169 U. S. 139, and the cases which are in accord with it. According to this authority a condition excepting suicide while sane from the risks assumed, is implied in all policies in which the insurance is payable to the insured, his estate, personal representatives, or assignees. This case is not, however, generally followed and the peculiar circumstances attending it influenced in a great measure the decision. Some cases distinguish between the beneficiaries, allowing the policy full effect where the beneficiaries are third parties and holding it void where the estate of the deceased would profit by the self-destruction. *Supreme Lodge* v. *Kutscher,* 72 Ill. App. 462; *Hall* v. *Life Assur. Co.,* 19 Pa. Super. Ct. 31. In mutual benefit associations, where the insured has power to change the beneficiary the exception also will be implied. *Supreme Commander* v. *Ainsworth,* 71 Ala. 436; *Mooney* v. *Ancient Workmen,* 114 Ky. 950; *Reynolds* v. *Supreme Order, etc.,* 24 Pa. Co. Ct. 638. That no recovery can be had when the policy is procured with the intent to commit suicide, see: *Parker* v. *Life, etc.,* 108 Ia. 117; *Campbell* v. *Supreme Conclave,* 66 N. J. Law 274; *Smith* v. *National Ben. Soc.* 51 Hun. 575. Even granting the rule as laid down in the *Ritter* case, where the policy is payable to the wife or child, recovery may be had, even though the suicide was committed while sane. The following cases also extend the rule to policies where the insured can change the beneficiary from time to time. *Supreme Lodge* v. *Kutscher, supra; Parker* v. *Life Ass'n, supra; Mills* v. *Rebstock,* 29 Minn. 380; *Campbell* v. *Supreme Conclave, supra.* From the authorities that have been given it may be seen that the principal case has authority for the position that it takes. The decision takes into consideration the mortality tables which are made up with the suicide loss as an element, and the court distinguishes the present case from the *Ritter* case which proceeds upon the assumption that no account is taken of the suicide element in making up the mortality tables. The situation may be summed up in the words of JUSTICE WINSLOW in *Patterson* v. *The National Premium Mutual Life Ins. Co.,* 100 Wis. 118, where he says: "Intentional suicide while sane does not avoid a life insurance policy in the absence of any provision therein to that effect, if third persons are beneficiaries, and, although suicide is technically a crime, it is not within the clause of an insurance policy providing that death in consequence of or in violation of law is not covered by